

**Summary Minutes
City of Sedona
Board of Adjustment Meeting
Council Chambers, Sedona City Hall, Sedona, AZ
Thursday, May 12, 2016 – 9:00 a.m.**

1. Verification of Notice, Call to Order, Pledge of Allegiance and Roll Call.

Chair Gilgoff called the meeting to order at 9:00 a.m., verified that the meeting had been properly noticed, led the Pledge of Allegiance and asked for roll call.

Roll Call:

Board Members Present: Chair Joel Gilgoff, Vice Chair Gary Rich and Board Members Robert Gordon, Charlotte Hosseini and Mike Ward

Staff Present: Warren Campbell, Audree Juhlin, Robert Pickels and Donna Puckett

Other Participants Present: Andrew McGuire, Gust Rosenfeld P.L.C., legal counsel for the Board of Adjustment and Kate Mahady, Aspey Watkins and Diesel P.L.L.C, legal counsel for the applicant.

Chair Gilgoff announced that the order of the agenda would be slightly changed; we will do the minutes, go to item 4, and finally do the Executive Session.

2. Approval of the following minutes: April 27, 2015 (R) and April 14, 2016 (R)

Chair Gilgoff asked if everybody on the Board had received a copy of the minutes from the April 27th and April 14th meetings and the Board Members indicated yes. He then asked if there was a motion to approve the April 27th minutes.

MOTION: Board Member Gordon so moved. Board Member Ward seconded the motion.

The Chair asked for any discussion and hearing none asked for those in favor. Hearing the ayes, Chair Gilgoff stated that it passed unanimously; however, Donna Puckett asked if there was an abstention, and Board Member Hosseini stated yes, she would like to abstain.

The Chair then noted that Board Member Hosseini was not on the Board and asked if that means she cannot vote. Donna Puckett explained that typically if they were not on the Board or were not present for the meeting, they would abstain. The Chair then stated, okay, we have one abstention.

VOTE: Motion carried four (4) for, zero (0) opposed and one (1) abstention. Board Member Hosseini abstained, because she was not on the Board in April of 2015.

The Chair then requested a motion for the April 14th minutes.

MOTION: Vice Chair Rich moved to approve the minutes of the April 14, 2016 meeting. Board Member Hosseini seconded the motion. VOTE: Motion carried unanimous, five (5) for and zero (0) opposed.

4. CONSIDERATION OF THE FOLLOWING REQUESTS THROUGH PUBLIC HEARING PROCEDURES:

Discussion/possible action on an appeal filed by Mr. Francis J. Slavin, counsel and authorized agent for Linda Rose Robson, William B. Robson and Rio Cody Robson concerning the operation of Son Silver West Gallery, Inc. located at 1476 State Route 179, Sedona. The appeal is regarding an interpretation of the City of Sedona Land Development Code made by the Zoning Administrator (Community Development Director) pertaining to two Notices of Violation issued on November 10, 2015. These Notices outline code violations related to the expansion of a conditionally allowed commercial use on a residentially-zoned property and

the use of three adjacent residentially-zoned properties for commercial purposes. Applicant: Mr. Francis J. Slavin, Counsel and Authorized Agent for Mr. William B. Robson, Ms. Linda Rose Robson, and Rio Cody Robson, Son Silver West Gallery, Inc. Case Number: AP2015-02

Chair Gilgoff explained that the court has requested that we postpone our hearing of the case and set a date specific for the actual hearing of the case, so he thinks all of you have before you a list of dates where this facility is available. Board Member Gordon stated that he didn't know if he did or not and the Chair gave him the list to review. Board Member Gordon explained that his problem is that he works and these morning meetings are just not going to work for him. He can't make that kind of commitment.

The Chair noted that it is the Board's understanding that this is going to be a fairly long hearing, so if we don't start in the morning, we are pretty bound to do it on two different days, and probably the second day will be in the morning. He then asked if there are any mornings that would conceivably work for Board Member Gordon. Board Member Gordon indicated that he didn't think people want to meet on Saturday morning. He can probably give up one morning, but not more than that. The Chair then stated that his preference is that he would rather get the hearing started earlier than later as far as in a calendar, because this has been dragging on for many years and we would just like to get the case resolved.

Board Member Gordon stated that he could not do it June 9th through 15th, and the Chair then asked about Friday, June 3rd, and Board Member Gordon stated that he could do that. The Chair asked if that would work for everyone and Board Member Hosseini stated no, she would be out of town. Audree Juhlin explained that we need a quorum of at least three, so if we are not able to get a date where everybody is available, we still just need you to strive for a quorum.

The Chair then suggested going with June 3rd, since four of the five members can do that, and it is fairly close in and we have all day available to try to knock that one out. Vice Chair Rich asked when the revised Staff Report would be available, and Audree Juhlin stated that it would be available as soon as next week if necessary. The Chair then stated okay, so it would be available in time to do a June 3rd hearing and Audree stated that is correct.

The Chair then asked for a motion from the Board to . . . ; Audree interjected that we need to double check and make sure this date works for the Board's legal counsel as well as Son Silver West's counsel, and asked if we could verify that date with both parties. The Chair then asked if they were both here, and Robert Pickels introduced Andrew McGuire who is the legal counsel that will be representing the Board relative to this matter and he is here today, and then Kate Mahady. Audree Juhlin stated that Kate is up at the table and Robert Pickels indicated that she will be representing Son Silver West. Kate stated good morning, and the Chair asked Ms. Mahady to spell her last name and she stated that Mahady is M-A-H-A-D-Y.

The Chair thanked Ms. Mahady and asked Andrew McGuire if he would be available on the 3rd and Andrew stated yes. The Chair then asked Kate Mahady who stated that unfortunately on the 3rd, Mr. Slavin who is the lead counsel on this case is unavailable. He was requesting in order of preference July 29th, July 7th or July 8th. Board Member Ward stated that he would not be available on the 7th or 8th of July. Board Member Gordon then stated that he would not be available and Chair Gilgoff added that he would not be available the 1st, 7th or 8th and indicated that he kind of resented the fact that he picked the last date, because it looks like you are doing everything you can to stall the hearing. Ms. Mahady stated that she could assure the Board that that is not the case. The lead counsel either has a conflict or is out of town for all of the June dates.

Chair Gilgoff then asked Andrew McGuire if the Board had to accept that, and Mr. McGuire stated that as soon as the revised Staff Report is available and adequate time has been given to the applicant, he thinks you can hold your hearing on any of the dates. The Chair then stated okay and requested a motion to have the hearing on June 3rd.

MOTION: Board Member Gordon so moved. Board Member Ward seconded the motion.

The Chair then stated okay, the date for the rehearing has been set for June 3, 2016 at 8:00 a.m. in this room and asked if the room is reserved for the entire day.

Audree Juhlin confirmed yes and Chair Gilgoff stated thank you.

3. **Executive Session: Upon a public majority vote of the members constituting a quorum, the Board may hold an Executive Session that is not open to the public for the following purpose: To consult with legal counsel for advice on the Son Silver West Gallery appeal.**

The Chair stated that we are now going to enter Executive Session and Board Member Ward asked if a motion was needed. The Chair then confirmed a motion was needed and requested a motion to enter Executive Session.

MOTION: Board Member Ward so moved. Board Member Gordon seconded the motion. VOTE: Motion carried five (5) for and zero (0) opposed.

The Chair stated okay, we are in Executive Session. The Board entered Executive Session at 9:09 a.m. and returned from Executive Session at 10:08 a.m.

Andrew McGuire stated that just to remind the Council or the Board that the Executive Session we just held is subject to state law. It is privileged, confidential. It has both confidentiality between me as your attorney and you, and in terms of its content can't be discussed with anybody that was not in the Executive Session. We don't have anybody missing, so we don't have to worry about that. If you have questions about the Executive Session, please don't have interactions amongst yourselves, contact him and if it is a question that he thinks the whole Board needs to have an answer to, we will let everyone know.

Chair Gilgoff requested a motion to adjourn.

MOTION: Board Member Ward moved adjournment. Board Member Gordon seconded the motion.

Donna Puckett pointed out that first we need a motion for the Board to return to open session, and then you can move to adjourn.

MOTION: Board Member Ward moved to return to open session. Board Member Gordon seconded the motion. VOTE: Motion carried five (5) for and zero (0) opposed.

5. **Adjournment**

MOTION: Board Member Ward moved adjournment. Vice Chair Rich seconded the motion. VOTE: Motion carried five (5) for and zero (0) opposed.

The Chair adjourned the meeting at 10:10 a.m.

I certify that the above is a true and correct summary of the meeting of the Board of Adjustment held on May 12, 2016.

Donna A. S. Puckett, *Administrative Assistant*

Date